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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,626	10/09/2003	John Herndon	0019012.00005	8438
21878	7590	04/06/2004	EXAMINER	
KENNEDY COVINGTON LOBDELL & HICKMAN, LLP 214 N. TRYON STREET HEARST TOWER, 47TH FLOOR CHARLOTTE, NC 28202				SUHOL, DMITRY
		ART UNIT		PAPER NUMBER
		3712		

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/682,626	HERNDON, JOHN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dmitry Suhol	3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-9 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachments(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/7/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____ .                                  |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities: Page 5 of the specification only shows right side of the page. A full, clear and readable replacement page 5 is required.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-4, 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 3, the relationship encompassed by the phrase "...wherein each said ends of said string have first and second different colored indicators located thereon, respectively..." can't be determined. It is unclear if applicants are claiming two indicators per end of each string of different colors or just a single indicator per each end of the string.

Regarding claim 7, the relationship encompassed by the phrase "...with each of said ends of said string having first and second different colored indicators located thereon, respectively..." can't be determined. It is unclear if applicants are claiming two

indicators per end of each string of different colors or just a single indicator per each end of the string.

Regarding claim 9, the relationship encompassed by the phrase "...placing two different color indicators on a length of string..." with respect to "...temporarily securing one end of said string to one of said securing members so that the colored indicator on said end of said string is positioned adjacent said securing member of the same color" can't be determined. It is unclear if applicants are claiming two indicators per end of each string of different colors or two indicators on one end of the string.

Due to the lack of a proper/comprehensible disclosure (lack of half of page 5 of the specification) the remainder of the claims are considered as best understood.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Collins '957. Collins discloses a device for assisting a user to tie a bow containing all of the elements of the claims including with reference to claim 1, a base member (10), an extended string attached to the base member with two ends extending loosely from the base member (figure 1, elements 13 and 14), a holding member supported above the

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base member (15) and having securing elements thereon spaced from one another (jaws 35) formed to temporarily hold the ends of the string in place (figures 8-10). Two holes with substantially equal portions of a string threaded therethrough, as required by claim, are shown as elements 19 and 20 in figure 1.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Collins '957. Collins discloses most of the elements of the claims, as stated above, and further including a vertically extending post being removably mounted on the base (col. 4, lines 46-55) where it is considered that a connection of a friction fit (i.e. a "snug" fit as described) is a removable connection since the stem 29 can simply be removed from socket 30.

Collins fails to teach that the holding member is removably attached to the post. It would have been obvious to one having ordinary skill in the art, at the time of the claimed invention to manufacture the device of Collins with a removable jaws portion, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Collins '957 in view of Cohen '296. Although Collins discloses most of the elements of the claims, as stated above, Collins fails to teach a base member including a drawing of a rabbit thereon and holes in the base member being located where the ears of the rabbit are located. However, Cohen discloses a device used to teach a person to tie a bow which teaches that it is known to provide an image of a rabbit (14) on such a device where when tied the bow having the appearance of ears of a rabbit (figures 1-3). Therefore it would have been obvious to have provided the device of Collins with an image of a rabbit such that the placement of the image would locate the holes where the ears of the rabbit would be for the purpose of providing a warm and friendly association that a child can make with such an animal.

#### ***Allowable Subject Matter***

Claims 3-4, 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 7 and 9 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action while incorporating all of the current limitations in the claim.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 703-305-0085. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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